

REMARKS

An amendment to the specification was previously submitted in the Request for Filing a Continuing Patent Application transmittal letter on August 22, 2003, when the application was filed. The August 2003 amendment, reproduced below, included an amendment to the specification to add a reference to prior filed applications:

This application is a continuation of application number 10/102,179, filed March 19, 2002, which is a continuation of application number 09/111,896, filed July 8, 1998, both of which are hereby incorporated by reference. This application is also a continuation-in-part of PCT Application Serial No. US98/00624, entitled Automated Image Archiving System, filed January 13, 1998; and U.S. Provisional Patent Application Serial No. 60/035,485, entitled Automated Image Archiving System, filed January 13, 1997.

The 2003 amendment was properly submitted within the time period set forth in §1.78(a)(2)(ii). However, the August 2003 amendment in the application transmittal letter did not comply with the requirements of §1.121(h) that just went into effect a month earlier on July 1, 2003. Nevertheless, a notice of non-compliant amendment was not issued to put the Applicant on notice that the amendment did not comply with the new amendment rules. Instead, the two filing receipts, dated November 17, 2003, and July 6, 2004, respectively, indicate that the priority date of January 13, 1998, was recognized by the US Patent and Trademark Office. In addition, the first Office Action, which is dated June 21, 2007, includes the statement on page 2 that "Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or 35 U.S.C. 120, 121, or 365(c) is acknowledged."

In accordance with MPEP 201.11(III)(D), if the claim is included in the application transmittal letter within the time period set forth in 37 CFR 1.78(a), the Office will not require a petition under 37 CFR 1.78(a) and the surcharge under 37 CFR 1.17(t) in order to correct the priority claim if the information concerning the claim was recognized by the Office as shown by its inclusion on the filing receipt. (See also, 1268 OG 89, Part IV.)

For the foregoing reasons, the requirements set forth in MPEP 201.11(III)(D) are met. Accordingly, Applicant respectfully requests entry of the enclosed amendment under 37 CFR 1.312 without the 1.78(a) petition and the corresponding 1.17(t) surcharge.

Respectfully submitted,
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